

REMARKS

The Rejections Under 35 USC § 112

These rejections to the form of the claims are moot in view of the amendments.

The Rejections Under 35 USC § 102

The features of claim 2 are incorporated into claim 1, and now require that the shell in the core/shell particles is connected to the core via an interlayer.

All the claims were rejected as allegedly anticipated independently by US 5,026,782 and US 5,053,441, which references are by the same inventor and have similar disclosures, and thus, similar shortcomings.

Nothing in either US '782 and US '441 indicates that an interlayer connecting the shell to the core is present between the core and the shell of the references' particles. To the contrary, US '782 and '441 both teach core/shell particles where the core is "in physical contact" with the shell that covers the core. See US '782 column 2, lines 36-40 and column 3, lines 6-10; and US '441 column 2, lines 40-44, and column 3, lines 15-19.

Additionally, one of ordinary skill in the art would understand from the process taught for making the particles of US '782 and US '441 that no such interlayer is formed. The cores are made by polymerization first, and then the already prepared cores are encapsulated by the polymerized shell. See US '782 column 2, lines 47-51 and column 6, lines 5-8 and lines 54-56; and US '411, column 2, lines 57-61, and column 7, lines 20-24 and lines 66-68. See especially the disclosure in US '782 on column 6, lines 54-56 and the same disclosure in US '411 on column 7, lines 66-68 stating that "after the core polymer particles are formed, the core polymer particles are then encapsulated with the shell polymer." (Emphasis added.) Based on this disclosure, one of ordinary skill in the art would understand that the polymerization of the shell starts once the polymerization of the core ends, in which case there are no reactive chain ends or interlayer material remaining on the surface of the core to connect to the shell when the shell starts to form by polymerization.

Accordingly, US '782 and US '411 do not anticipate the claimed invention.

All the claims were rejected as allegedly anticipated independently by US 6,337,131.

US '131 teaches core/shell particles. However, this reference also does not teach or suggest that the shell is bonded to the core via an interlayer.

Instead US '131 teaches a stepwise polymerisation process for the formation of the core/shell particles where the core particles are formed first, and then the shell polymers are deposited onto the surface of the cores. See column 1, lines 44-49, and column 9, lines 17-25.

There can be no anticipation when an element of an invention is not even taught or suggested by the reference.

Additionally, in co-pending application 10/489,419, data demonstrating unexpected results over the particles of US '131 were submitted in a test report with the Reply filed on December 1, 2005, therein. It is expected that this test report will be submitted in the form of a declaration in the near future.

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Csaba Henter, Reg. No. 50,908
Anthony J. Zelano, Reg. No. 27,969
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2956

Date: **January 4, 2006**

K:\Merck\2000 - 2999\2956\Reply Jan 06.doc